

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

EBONNI PEPPERS,

Plaintiff,

v.

SIMON & SCHUSTER, INC. and
VIACOMCBS INC.,

Defendants.

Civil Action No. 22-2703 (RK) (TJB)

MEMORANDUM ORDER

KIRSCH, District Judge

THIS MATTER comes before the Court upon the Report and Recommendation of the Honorable Tonianne J. Bongiovanni, U.S.M.J., entered in this matter on March 15, 2024. (“R&R”, ECF No. 37.) The R&R recommends dismissing Plaintiff Ebonni Peppers’s Amended Complaint, (ECF No. 8), with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2).

The Court adopts the relevant procedural history recounted in Judge Bongiovanni’s R&R. (See R&R at 1–5.) Judge Bongiovanni exhaustively chronicled that in the seven months after the Court granted Plaintiff’s counsel leave to withdraw from the representation in July 2023, the Court issued three Orders instructing Plaintiff to inform the Court whether she intended to prosecute the action or seek dismissal. (*Id.* at 3–4 (citing ECF Nos. 32, 33, 35).) Plaintiff failed to respond, indicate how she intended to proceed, or otherwise prosecute the matter. (*Id.*) Judge Bongiovanni also set two in-person hearings that Plaintiff failed to attend. (*Id.* at 3–5.) The Court’s October 20, 2023 and January 12, 2024 Orders to Show Cause warned Plaintiff that failure to respond could result in the dismissal of her case with prejudice. (*Id.* at 4–5.)¹

¹ Judge Bongiovanni noted that the record was not clear that the October 20, 2023 Order was properly mailed to and served on Plaintiff, and as a result Judge Bongiovanni issued an amended Order on January 12, 2024 that was unquestionably mailed and served properly. (R&R at 4.)

On March 7, 2024, the Court received a letter from Plaintiff indicating that she no longer resided in New Jersey and had not received the Court's prior orders. (*Id.* at 5; *see also* Ex. A to R&R.) Plaintiff wrote several times in her letter that she did not wish to proceed with her case. (*Id.*)

Judge Bongiovanni's R&R, issued on March 15, 2024, recommended dismissing the Amended Complaint with prejudice pursuant to Rule 41(a)(2), which permits the Court to dismiss an action at a plaintiff's request. Per the Court's instruction, the R&R was mailed to Plaintiffs' address of record and emailed to two email addresses that Plaintiff used. (R&R at 5–6.) To date, no party has objected to the proposed findings and recommendations.

The Court has reviewed all relevant documents and submissions in this matter and adopts the R&R without modification. Therefore,

IT IS on this 7th day of May, 2024:

ORDERED that the Court adopts the Report and Recommendation, (ECF No. 37), in its entirety; and it is further

ORDERED that Plaintiff's Amended Complaint, (ECF No. 8), is **DISMISSED** with prejudice; and it is further

ORDERED that the Clerk of the Court is directed to mail a copy of this Memorandum Order to the following email addresses: ebonni_pepper@comcast.net and haze4days@gmail.com; and it is further

ORDERED that the Clerk of the Court is directed to mail a copy of this Memorandum Order to the address of record for Plaintiff;² and it is further

ORDERED that the Clerk of the Court is directed to **CLOSE** this matter.



ROBERT KIRSCH
UNITED STATES DISTRICT JUDGE

² The Court notes that the Clerk of the Court served Judge Bongiovanni's R&R on Plaintiff at her address of record in Willingboro, New Jersey, (R&R at 6), but that mail was returned as undeliverable, (ECF No. 38). Plaintiff's letter to the Court, received on March 7, 2024, acknowledged that the Court served its Orders at her Willingboro address but that Plaintiff has not received them because she moved to Florida and has not received her mail in New Jersey. (Ex. A to R&R.) Nonetheless, Plaintiff's letter did not provide the Court with an updated mailing address, and Plaintiff has not changed her address of record on CM/ECF. Therefore, the Court has no alternative means to serve its Orders on Plaintiff, despite Plaintiff's evident awareness that the Court has been attempting to contact her at her Willingboro, New Jersey address.